

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**June 29, 2004**

Cornelia G. Clark  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 04-0191-FT  
STATE OF WISCONSIN**

Cir. Ct. No. 03CV001438

**IN COURT OF APPEALS  
DISTRICT III**

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**JOHN J. BUNKER,**

**PLAINTIFF-APPELLANT,**

**V.**

**CITY OF GREEN BAY PROPERTY ASSESSMENT BOARD OF  
REVIEW, THEIR AGENTS, EMPLOYEES, OR THOSE  
ACTING BY THEIR DIRECTION, OR ON THEIR BEHALF,**

**RESPONDENTS-RESPONDENTS.**

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APPEAL from a judgment of the circuit court for Brown County:  
JOHN D. McKAY, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. John Bunker appeals a judgment affirming a \$1,423,200 property tax assessment for his home.<sup>1</sup> He argues that the Board of Review should have used a “cost method” instead of the “comparable sales method” and that the board violated his due process rights when it refused to allow him to present all of his evidence on the cost of construction. He also argues that, even if the comparable sales method was appropriate, the board should have used different properties to determine the value of his home and that the board violated his due process rights by not allowing him to present additional evidence on comparable properties after it reached its decision. We reject these arguments and affirm the judgment.

¶2 We review the board’s decision independent of the circuit court’s conclusions. See *Steenberg v. Town of Oakfield*, 167 Wis. 2d 566, 571, 482 N.W.2d 326 (1992). The assessor’s valuation is presumed correct and the challenger has the burden of producing evidence to overcome that presumption. See *Rosen v. Milwaukee*, 72 Wis. 2d 653, 661-62, 242 N.W.2d 681 (1976). We affirm the board’s decision if it is supported by any reasonable view of the evidence. *Id.*

¶3 The board appropriately relied on the comparable sales method for determining the value of Bunker’s home. WISCONSIN STAT. § 70.32(1) requires assessors to assess real property at its fair market value from the best information available. The assessor must consider recent sale of the property, sales of comparable property and other factors that affect the property’s value. *Id.* It is

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<sup>1</sup> This is an expedited appeal under WIS. STAT. RULE 809.17. All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

error to consider other factors affecting the value of property when the fair market value has been established by the sale of the property or other comparable property. *See State ex rel. Markarian v. Cudahy*, 45 Wis. 2d 683, 686, 173 N.W.2d 670 (1970). The assessor followed the law by using the comparable sales method instead of Bunker's proposed cost method. Once the board accepted the comparable sales method, Bunker's evidence relating to the cost method became irrelevant and the board properly disallowed it.

¶4 The board also appropriately refused to rely on Bunker's proposed comparable properties in determining the comparable sales value. The houses that Bunker described as "comparable" were approximately half the size of his house. The properties also lacked amenities unique to Bunker's home, such as an indoor swimming pool, waterfall, fountains, landscaping, stone and marble, a large foyer with a double circular staircase and multiple garages. The assessor reasonably utilized sales of properties that more closely approximated the size of Bunker's home and adjusted the valuation based upon the additional size and the amenities.

¶5 Several hours after the board reached its decision, Bunker attempted to present additional evidence regarding the other comparable properties. The board reasonably refused to rehear the matter. Bunker's due process rights include the right to be heard, but the board could reasonably require that he present all of his evidence at the initial hearing. Bunker cites no authority to support his right to belatedly present evidence in a piecemeal fashion, particularly when the evidence could have been discovered for initial hearing.

*By the Court.*—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b).



